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Attorney for Defendants and Counterclaimants  
Randolph Kemps, Ares Digital, Inc.,  
and MyGuide (USA), Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MYGUIDE HOLDING GMBH; and  
MYGUIDEGPS LTD.,

Plaintiffs,

vs.

RANDOLPH KEMPS, an individual; ARES  
DIGITAL, INC.; and MYGUIDE (USA), INC.,

Defendants.

RANDOLPH KEMPS, an individual; ARES  
DIGITAL, INC.; and MYGUIDE (USA), INC.,

Counterclaimants,

vs.

MYGUIDE HOLDING GMBH; and  
MYGUIDEGPS LTD.,

Counterdefendants.

Civil Action No.: CV 08-0057 JF

**DECLARATION OF DAVID P. MORALES  
RE: EFFORTS TO COMPLETE JOINT  
CASE MANAGEMENT CONFERENCE  
STATEMENT (Civil Local Rule 16-9(a))**

**DECLARATION OF DAVID P. MORALES RE: EFFORTS TO COMPLETE JOINT  
CASE MANAGEMENT CONFERENCE STATEMENT**

**DECLARATION**

I, David P. Morales, declare:

1. I am a member of this Court and the attorney of record for Defendants and Counterclaimants in the above action. I am providing this Declaration pursuant to Civil Local Rule 16-9(a). The following information is of my personal knowledge.

2. Plaintiffs' counsel Conger and I agreed to meet and confer on Friday, April 11, 2008 regarding Rule 26, the required Joint Case Management Conference Statement, and our Joint ADR Stipulation as required by the Court's schedule in this matter.

3. On April 11, 2008, I met and conferred with Mr. Conger regarding ADR, but Mr. Conger was not prepared to meet and confer regarding Rule 26 and our Joint Case Management Conference Statement. Mr. Conger agreed to prepare a draft Joint Case Management Conference Statement for my review and revision on Monday, April 14, 2008. Mr. Conger finally provided me with his draft Case Management Statement on the afternoon of Friday, April 18, 2008.

4. I had hoped to finalize the parties' Joint Case Management Conference Statement during the week of April 14<sup>th</sup> because I would have very limited availability during the week of April 22<sup>nd</sup>. I was ultimately able to review and revise Mr. Conger's draft Case Management Conference Statement on the morning of Thursday, April 24, 2008. Given the inaccurate and prejudicial character of Mr. Conger's draft Joint Statement, I needed to make substantial revisions. Unfortunately, due to a computer malfunction, I lost a substantial portion of my revisions and had to redo a substantial amount of that work.

5. On the morning of Friday, April 25, 2008, I sent Mr. Conger an electronic mail message explaining the situation. Mr. Conger indicated that his availability would be limited that afternoon and he requested that I deliver the revised Joint Case Management Statement to him by 1:00 p.m. Pacific Time. I delivered my revised Joint Case Management Conference Statement to Mr. Conger at 1:17 p.m. Pacific Time.

